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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/737,073	12/16/2003	Jae-Yeori Lee	P3058/LJY	5236

7590 11/30/2004  
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EXAMINER

COCKS, JOSIAH C

ART UNIT PAPER NUMBER

3749

DATE MAILED: 11/30/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 10/737,073	Applicant(s) LEE, JAE-YEORL	
	Examiner Josiah Cocks	Art Unit 3749	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 16 December 2003.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12/16/2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Drawings*

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. On page 4 of the specification Applicant describes Fig. 1 as showing a conventional Korean barbecue employing a bamboo grid set of applicant's present invention. However, in the detailed description of Fig. 1 found on page 6 of the specification applicant does not appear to indicate that the bamboo grid set of applicant's invention is illustrated in Fig. 1. Applicant refers to cooking grid (15) in the description and illustrates the grid (15) in Fig. 1 but it appears that cooking grid (15) is only a conventional cooking grid. Applicant's inventive bamboo grid set is designated with reference character (30). It is not clear what configuration applicant's grid set (30) would have in the barbecue grill assembly shown in Fig. 1. Applicant should amend Figure 1 to provide an illustration of where and how grid set (30) would be placed in the barbecue grill.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the

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renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 1-11 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Applicant's use of the terms "consisting of" in claim 1, line 1 and "comprises" in claim 1, line 3 are inconsistent. It has been held that the term "comprises" leaves a claim open for inclusion of material or steps other than those recited in the claims, see Ex parte Davis, 80 USPQ 448 (PTO Bd. App. 1948), whereas "consisting of" limits the scope of the claim to what is recited, see In re Hunter, 129 USPQ 225 (CCPA 1961). Accordingly, the scope of claims 1 is not clear in applicant's use of both of these terms in the preamble. As best can be determined and for the purpose of an examination on the merits claim 1 has been regarded as reciting:

--A barbecue grill comprising an oven lower part under a dining table, a par of burning charcoal containers as a primary heat source, a oil liquid droplet collecting pan, a ventilation system, and:

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a grid set....., and

a grid mounting set.....---

Correction is required.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Applicant's admitted prior art Korean barbecue grill (Applicant's Figure 1 and Specification page 6) in view of Korean Patent No. 2003018624 A published March 6, 2003 ("Korean patent") (Note: the Korean document is unavailable however the examiner is relying on the English Abstract and Figure 1 of this Korean patent published by Derwent. Copies of the Derwent Abstract and Figure are provided with this Office Action).

Applicant's admitted prior art is admitted by applicant to disclose the barbecue grill structure, including a cooking grid, recited in applicant's claim 1 (see applicant's specification, p. 6). This prior art is not disclosed as including a grid set made with a plurality of natural bamboo strips arranged at constant intervals to a clamping means or a grid mounting set consisting of a metal frame and grid mounting plates.

The Korean patent is cited to remedy the deficiencies of the applicant's admitted prior art. In the Korean patent a cooking grid is disclosed having a plurality of bamboo strips (13)

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arranged at constant intervals that are clamped by portions indicated in Fig. 1 with reference character (14), and a mounting grid (10) with a metal frame and mounting plates.

In regard to claim 11, to have selected specific dimensions for the size of the bamboo strips would be dependent upon such factors as the size of the grill and are considered merely matters of design choice. Applicant has not asserted that the size of the bamboo strips provides an advantage, is used for a particular purpose, or solves a stated problem. One of ordinary skill in the art would have expected applicant's invention to perform equally well with the bamboo strip sizes shown in Fig. 1 of the Korean patent for the purpose of supporting items to be cooked. Further, in regard to claim 11, the examiner considers that the surfaces of the bamboo strips shown in Figure 1 of the Korean patent "may be carved" with decorations and therefore meet the limitations of applicant's claim.

Therefore, in regard to claims 1 and 11, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the cooking grid of applicant's admitted prior art to incorporate the bamboo grid disclosed by the Korean patent as bamboo is recognized to provide a healthful component to the human body which provided on a cooking plate and improves the taste and flavor of meat and fish (see English abstract of the Korean patent).

#### *Allowable Subject Matter*

6. Claims 2-10 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

***Conclusion***

7. This action is made non-final. A THREE month shortened statutory period for reply has been set. Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) months from the mailing date of this communication.

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. U.S. Patents to Kikuchi and Natsumi and Korean Patent No. 2002073470 A (only English abstract and Fig. 1 included) are cited to show the state of the art concerning bamboo grill and cooking structures. U.S. Patent to Chen et al. is cited to show methods of making bamboo strips. U.S. Patent to Valiela is cited to further show the state of the art concerning barbecue grill and grid structure.

9. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://portal.uspto.gov/external/portal/pair>. Any questions on access to the Private PAIR system should be directed to the Electronic Business Center (EBC) at (866) 217-9197 (toll-free).


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10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner Josiah Cocks whose telephone number is (571) 272-4874. The examiner can normally be reached on weekdays from 7:30 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ira Lazarus, can be reached at (571) 272-4877. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0861.

jcc  
November 23, 2004

  
JOSIAH COCKS  
PRIMARY EXAMINER  
ART UNIT 3749